

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN P. KELLEHER,
Appellant,
vs.
THOMAS R. STOREY,
Respondent.

No. 55807

FILED

FEB 08 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Youne
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND


This is an appeal from a district court order denying a motion for attorney fees. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

In the district court, appellant initially moved for attorney fees based on a contractual provision and as special damages. The district court awarded attorney fees as special damages, but this court reversed the district court's award. Appellant thereafter returned to the district court and moved again for attorney fees based on the provision in the parties' contract. The district court denied the motion based on the law-of-the-case doctrine.

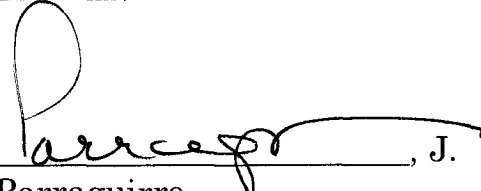
This court's reversal of the district court's decision was based on the award of attorney fees as special damages. See Storey v. Kelleher, Docket No. 51324 (Order Affirming in Part and Reversing in Part, December 4, 2009). Because this court did not consider or expressly rule on contractual attorney fees, the law-of-the-case doctrine did not apply. See Dictor v. Creative Management Services, 126 Nev. ___, ___, 223 P.3d 332, 334 (2010) (explaining that the law-of-the-case doctrine provides that an appellate court's decisions in a case govern subsequent proceedings, and clarifying that the doctrine does not prevent a district court from

considering issues not previously decided). Accordingly, the district court abused its discretion by denying attorney fees on this basis, Kahn v. Morse & Mowbray, 121 Nev. 464, 479, 117 P.3d 227, 238 (2005) (providing that an award of attorney fees is reviewed for a manifest abuse of discretion), and we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Valorie Vega, District Judge
Mary F. Chapman
Thomas R. Storey
Eighth District Court Clerk